

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL
MINUTES

February 21, 2013

The meeting of the Arizona Prosecuting Attorneys' Advisory Council was called to order by the Chair, Sheila Polk, on Thursday, February 21, 2013, at 10:00 a.m., at the APAAC Office which is located at 1951 W. Camelback Road, Suite 202, in Phoenix, Arizona.

COUNCIL MEMBERS PRESENT

Sheila Polk	APAAC Chair, Yavapai County Attorney
Brad Carlyon	Navajo County Attorney (telephonic)
Jon Eliason	Mesa City Prosecutor
Barbara LaWall	Pima County Attorney (telephonic)
Bill Montgomery	Maricopa County Attorney
Ed Rheinheimer	Cochise County Attorney (telephonic)
Tony Rogers	La Paz County Attorney
David Rozema	Coconino County Attorney (telephonic)
Tobin Sidles	Oro Valley Town Prosecutor (telephonic)
Matthew Smith	Mohave County Attorney (telephonic)
Lando Voyles	Pinal County Attorney
Rob Walecki	Glendale City Prosecutor (telephonic)
Michael Whiting	Apache County Attorney (telephonic)

COUNCIL MEMBERS PRESENT BY PROXY

George Silva	Santa Cruz County Attorney (telephonic) Proxy Thomas O' Sullivan
Tom Horne	Arizona Attorney General Proxy Andrew Pacheco
Aaron Carreon-Ainsa	Phoenix City Prosecutor Proxy Jessica Breedlove
Baird Greene	Tucson City Prosecutor (telephonic) Proxy William Mills

STAFF PRESENT

Elizabeth Ortiz	Executive Director
Denise Helm	Executive Assistant
Diana Cooney	Legal Secretary II
Krystle Fernandez	APAAC Extern

VISITORS

Kent McCarthy	Phoenix Assistant City Attorney
Kent Cattani	Assistant Attorney General
Brad Mecum	Attorney General's Office

CONSENT AGENDA

Mr. Tobin Sidles made a motion, seconded by Mr. Jon Eliason, to approve the consent agenda. Motion carried.

CHAIR'S REPORT

Ms. Sheila Polk provided an update on the Criminal Disposition Record Working Group's review of the current procedure in Arizona. The Arizona Criminal Justice Commission, along with Mr. Jerry Landau, Mr. Derek Rapier, Ms. Polk and Administrative Office of the Court representatives, are reviewing options to streamline the process for collecting and tracking charges and convictions. Ms. Jessica Breedlove indicated that the City of Phoenix has started to upgrade their system and volunteered to be part of the working group.

Ms. Polk recognized the efforts of Ms. Elizabeth Iniguez-Reyna in coordinating APAAC's various social media (website, Facebook, Twitter, etc.), which are valuable resources and tools for prosecutors and help to keep the public informed on criminal justice issues.

EXECUTIVE DIRECTOR'S REPORT

Ms. Elizabeth Ortiz provided an update on the status of various amicus briefs filed by APAAC: The matter of *Missouri v. McNeely* was argued in front of the U.S. Supreme Court on January 9, 2013; *State v. Cooperman* is scheduled for conference at the Arizona Supreme Court on March 19, 2013; *Montgomery v. Bassett [Cuen, RPI]* is pending before the Arizona Court of Appeals; and, *State v. Okun*, is pending before the Arizona Supreme Court. On February 15, 2013, the Executive Committee approved APAAC's preparing an *amicus* brief in the matter of *State v. Okun*. A copy will be sent to Council members once the brief is filed.

Since the last Council meeting, Ms. Ortiz has visited the Gila County Attorney's Office on January 18, 2013, and La Paz County Attorney's Office on January 25, 2013.

Ms. Ortiz provided an update on the two newest APAAC working groups. Ms. Kim MacEachern held the first Medical Marijuana Working Group meeting on February 12, 2013, with subsequent meetings to be held twice a year to discuss issues and strategies. Ms. Ortiz held the first Child Abuse Working Group meeting on February 19, 2013, with a follow-up meeting to be set in approximately two months.

APAAC has launched its second annual Art Contest for the 2013-14 Training Calendar. In conjunction with APAAC's summer conference theme, the calendar will celebrate APAAC's 40th anniversary.

APAAC FINANCIAL AND SEMINAR INFORMATION

Ms. Polk directed Council members to the financial and seminar information showing a comparison of revenue, training costs and operating expenses for the past three fiscal years. APAAC is developing additional financial statements for improved reporting to the Council.

Ms. Barbara LaWall made a motion, seconded by Mr. Andrew Pacheco, to create an APAAC Finance Committee. Discussion ensued. Motion carried.

CITY OF PHOENIX PROSTITUTION DIVERSION PROGRAM

Mr. Kent McCarthy provided information on the City of Phoenix's Prostitution Diversion Program. The program was created to provide post-charge, post-plea diversion from the city's mandatory jail time ordinance. The agenda attachment included a 2011 study conducted by program partner, ASU School of Social Work, along with a PowerPoint highlighting the program's components.

PROPOSED TRAINING REGISTRATION POLICY

Ms. Ortiz introduced a proposed draft of a revised Training Registration Policy, outlining and defining who can register for and attend APAAC training programs.

Mr. Bill Montgomery made a motion, seconded by Mr. Sidles, to adopt the Training Registration Policy as drafted. Discussion was held. Mr. Pacheco proposed an amendment to reflect that the authority to approve discretionary training registrations lays with APAAC's Executive Director, instead of APAAC. The proposed amendment was accepted. Motion carried.

TRAINING COMMITTEE REPORT

Mr. Sidles directed the Council to the report showing recent seminars and attendance numbers, in addition to upcoming seminars for March and April. Mr. Sidles noted that APAAC will not reimburse attendees for travel expense related to the (3) Criminal Year in Review seminars; however, hotel reservations will be made through and paid directly by APAAC.

AZ ASSOCIATION OF COUNTY ORGANIZATIONS REPORT

Mr. Carlyon reported that the NACO annual Legislative Conference will be held March 2-6, 2013, in Washington, D.C., at which time NACO will be setting legislative priorities and meeting with congressional representatives on key issues facing county government.

LEGISLATIVE POLICY COMMITTEE REPORT

Mr. Carlyon reported on the recommendations from the APAAC's Legislative Policy Committee (LPC) as set forth in the agenda attachment, and asked that the Council vote by category: Support, Oppose, Neutral and Information Only.

Mr. Carlyon made a motion, seconded by Mr. Montgomery to support all the bills in the Support category of the LPC report. Discussion ensued. Motion carried.

Mr. Carlyon made a motion, seconded by Ms. Breedlove, to oppose all the bills in the Oppose category of the LPC report. Mr. Montgomery asked that HB2288 and HB2554 be pulled from for further discussion. Discussion ensued. Motion carried.

Mr. Carlyon made a motion, second by Mr. Eliason, to adopt the LPC position of neutral on all the bills in the Neutral category of the LPC report. Motion carried.

Mr. Carlyon informed the Council that a vote is not necessary on those bills in the Information category of the LPC report. Discussion was held.

Ms. Polk introduced the Governor's decision to expand Medicaid to pick up uninsured individuals, resulting in a match of federal funds. No current bill at the legislature this session. Discussion ensued. Resolution of the Council was considered. No formal APAAC position was made at this time, although individual County Attorney offices can file their own resolution.

Mr. Carlyon presented for discussion the Arizona Department of Transportation's draft of the Restitution Lien bill. Arizona Auto Dealers Association has concerns about current language. Ms. MacEachern has put together an APAAC working group to discuss issues. Mr. Montgomery suggested tabling this for further discussion; Mr. Carlyon concurred.

Mr. Carlyon introduced SB1390, which creates a Class 4 felony offense for convicted felons who purchase weapons. Mr. Carlyon stated that LPC does not take position on gun bills.

Mr. Carlyon asked Mr. Kent Cattani to speak on SB1413-Appeals/Postconviction Relief. Mr. Cattani solicited APAAC support for this bill. Mr. Montgomery voiced concern about the impact on prosecutors' work load and offices having the necessary resources to take on the responsibilities under the proposed bill. Mr. Carlyon recommended tabling issue and stated Council members can act on their respective positions on an individual basis.

Mr. Carlyon explained HB 1471-Prohibited Possessors, which is being sponsored by Sen. Gallardo. Mr. Pacheco made a motion, seconded by Mr. Carlyon, to continue monitoring this bill. Discussion ensued. Motion carried.

Mr. Carlyon revisited HB2288-State Regulation of Firearms, which was pulled from LPC-Oppose position list. This bill was opposed by APAAC in its previous version last session due to County cost to install gun lockers in affected buildings. Mr. Pacheco made a motion, seconded by Mr. Montgomery, to monitor this bill. Discussion ensued. Motion carried.

Mr. Carlyon resumed discussion on HB2554-Firearm Regulation, which was pulled from LPC-Oppose position list. Mr. Carlyon made a motion, seconded by Mr. Pacheco, for APAAC to monitor. Discussion ensued. Motion carried.

NDAAC REPORT

Ms. Polk stated that Mr. Lando Voyles, Mr. Carlyon and Mr. Montgomery attended the NDAA Capitol Conference on February 11-13, 2013; and they reported a successful trip.

CALL TO THE PUBLIC

Mr. Ed Rheinheimer inquired whether attendees at the upcoming Criminal Year in Review seminar can receive travel reimbursement in lieu of APAAC paying for hotel room expense. Ms. Ortiz will research whether this is a viable option.

Mr. Tony Rogers expressed appreciation for the overwhelming assistance received in handling conflict cases in La Paz County since taking office.

NEXT COUNCIL MEETING

Ms. Polk announced that the next Council meeting will be held on Friday, March 15, 2013, at 10:00 a.m. in the APAAC office.

ADJOURNMENT

Ms. Polk declared the meeting adjourned at 12:20 p.m.